

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JOSEPH MICHAEL ARPAIO,

Plaintiff,

v.

MICHELLE COTTLE, et al.

Defendants.

Case No. 18-cv-02387-(APM)

**PLAINTIFF'S OPPOSITION TO SPECIAL MOTION TO DISMISS PURSUANT TO
THE D.C. ANTI-SLAPP ACT**

Plaintiff Joseph Arpaio (“Plaintiff”) hereby submits the following in response to Defendants’ Michelle Cottle and The New York Times’ (“Defendants”) Motion to Dismiss pursuant to D.C. Code § 16-5502(a).

It is well settled law that a federal court sitting in diversity may not apply the D.C. Anti-SLAPP Act. “A federal court exercising diversity jurisdiction therefore must apply Federal Rules 12 and 56 instead of the D.C. Anti-SLAPP Act’s special motion to dismiss provision.” *Abbas v. Foreign Policy Grp., LLC*, 783 F.3d 1328, 1337 (D.C. Cir. 2015); *see also Libre by Nexus v. BuzzFeed, Inc.*, 311 F. Supp. 3d 149 (D.D.C. 2018).

In any event, as set forth in the accompanying Opposition to Defendants’ Motion to Dismiss, Plaintiff has shown a likelihood of success on the merits, which would satisfy any burden set forth by the D.C. Anti-SLAPP Act, even if it were applicable. However, as set forth above, this Court need not even reach that analysis, as it is clear that the D.C. Anti-SLAPP Act does not and cannot apply here. Filing a frivolous Anti-SLAPP motion is simply to meant to cause Plaintiff to expend scarce resources.

DATED: February 8, 2019

Respectfully submitted,

/s/ Larry Klayman

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CERTIFICATE OF SERVICE

I, Larry Klayman, counsel for Plaintiffs, hereby certify that on this day, February 8, 2019 a copy of the foregoing was filed via this Court's ECF system and served upon all parties and/or counsel of record.

/s/ Larry Klayman

Larry Klayman